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*Attorneys for the Official Committee of Equity Security
 Holders of USA Capital Diversified Trust Deed Fund, LLC*

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 Debtor.

In re:
 USA CAPITAL REALTY ADVISORS, LLC,
 Debtor.

In re:
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 Debtor.

In re:
 USA CAPITAL FIRST TRUST DEED FUND, LLC,
 Debtor.

Case No. BK-S-06-10725 LBR
 Case No. BK-S-06-10726 LBR
 Case No. BK-S-06-10727 LBR
 Case No. BK-S-06-10728 LBR
 Case No. BK-S-06-10729 LBR

Chapter 11

Jointly Administered Under
 Case No. BK-S-06-10725-LBR

In re:
USA SECURITIES, LLC,
Debtor.

**AMENDED JOINT EX PARTE
APPLICATION FOR ORDER
REQUIRING MICHAEL ZITO TO
APPEAR FOR EXAMINATION
PURSUANT TO FEDERAL RULE OF
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA First Trust Deed Fund, LLC

Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (hereinafter, the "Bankruptcy Rules"), USA Capital Diversified Trust Deed Fund, LLC (hereinafter, "Diversified"), and the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC (hereafter, the "Diversified Committee"), by and through their respective counsel noted above,¹ hereby apply to this Court for an order setting the examination of Michael Zito, under oath, under Bankruptcy Rule 2004. This Application is explained in the following Memorandum.

MEMORANDUM

Diversified and the Diversified Committee are seeking information from Michael Zito concerning the obligation owed to Diversified and others by BySynergy, LLC, collateral securing that obligation, the status of development of the collateral, and other liens on the collateral. Diversified and the Diversified Committee seek this information to assist in the collection of the assets and investigation of the liabilities of Diversified.

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¹ Diversified and the Diversified Committee make this Application jointly because counsel for the Diversified Committee will become counsel to the reorganized Diversified entity subsequent to the Effective Date under the Debtors' Third Amended Chapter 11 Plan, which was confirmed by the Court pursuant to its order entered January 8, 2007.

1 The requested discovery from the Custodian of Documents for BySynergy, LLC is well
 2 within the scope of the examination permitted pursuant to Bankruptcy Rule 2004, which
 3 includes:

4 [A]cts, conduct, or property or . . . the liabilities and financial condition of
 5 the debtor, or . . . any matter which may affect the administration of the
 6 debtor's estate, or to the debtor's right to a discharge. In a . . .
 7 reorganization case under chapter 11 of the Code, . . . the examination
 8 may also relate to the operation of any business and the desirability of its
 9 continuance, the source of any money or property acquired or to be
 10 acquired by the debtor for purposes of consummating a plan and the
 11 consideration given or offered therefore, and any other matter relevant to
 12 the case or to the formulation of a plan.

13 Fed.R.Bankr.P. 2004(b).

14 Bankruptcy Rule 2004(a) provides that "[o]n motion of any party in interest, the court
 15 may order the examination of any entity." Rule 2004 of the Local Rules of Bankruptcy
 16 Procedure (hereinafter, the "Local Rules") provides, in pertinent part:

17 (b) Order for examination. Orders for examination may be signed by
 18 the clerk if the date set for examination is more than ten (10) business days
 19 from the date such motion is filed....

20 LR 2004(b).

21 As required by the Local Rules, the date for the proposed examination is more than ten
 22 (10) business days from the date of this Motion.

23 CONCLUSION

24 Accordingly, Diversified and the Diversified Committee respectfully request that the
 25 Clerk of the Court docket the form of Order submitted herewith requiring the Custodian of
 26 Records for BySynergy, LLC, to testify under oath on the matters outlined above and requiring
 27 that the Custodian of Records for BySynergy, LLC, under Rule 30(b)(6) of the Federal Rules of
 28 Civil Procedure be required to appear on February 16, 2007, at 11:00 o'clock a.m. Mountain

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Standard Time at the Residence Inn By Marriott, 3440 North Country Club Dr., Flagstaff,
Arizona 86004.

Respectfully submitted this 18th day of January 2007.

BECKLEY SINGLETON, CHTD.

RAY, QUINNEY & NEBEKER, P.C.

/s/ Anne M. Loraditch

/s/ Steven C. Strong

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